

Applicants respectfully traverse the restriction requirement, and provisionally elect the claims of Group I, claim 1 for further prosecution.

Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that, at least, Groups I and II should be examined simultaneously because they are related as nucleic acids and proteins encoded by such nucleic acids. Accordingly, examination of Groups I and II together would pose no undue burden to the Examiner. Furthermore, Applicants submit that restriction to a single nucleotide sequence is improper, as MPEP Section 803.04 itself indicates that “normally ten sequences constitute a reasonable number for examination purposes” and Applicants believe no serious burden would result by the search and examination of at least ten nucleotide sequences.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group I (claims 1 and 2), and SEQ ID NO: 1.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (314) 694-3602.

Respectfully submitted,

Lawrence M. Lavin, Jr.

Lawrence M. Lavin, Jr. (Reg. No. 30,768)
by David R. Marsh (Reg. No. 41,408)

DATE: August 29, 2001

Monsanto Company
800 North Lindbergh Blvd.
Mailzone N2NB
St. Louis, Missouri 63167
(314) 694-3602 telephone
(314) 694-1671 facsimile

by

David R. Marsh